

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF DELAWARE

WAYNE VAN SCOY)	
Plaintiff,)	
)	
v.)	C.A. No. 05-108-KAJ
)	
VAN SCOY DIAMOND MINE OF)	
DELAWARE, INC., KURT VAN SCOY)	
AND DONNA VAN SCOY)	
)	
Defendants.)	

**PLAINTIFF WAYNE VAN SCOY'S MOTION FOR SUMMARY JUDGMENT
ON DEFENDANTS' LACHES, ACQUIESCENCE AND ESTOPPEL DEFENSES**

Plaintiff moves for summary judgment in favor of Plaintiff and against Defendants pursuant to F.R.Civ.P. 56 on Defendants' Laches, Acquiescence and Estoppel Defenses. The moving papers show there are no disputed facts and as a matter of law judgment should be entered in favor of Plaintiff and against Defendants.

ASHBY & GEDDES

/s/ John G. Day
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Dated: October 25, 2005

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AND DONNA VAN SCOY)	
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Defendants.)	

**[PROPOSED] ORDER GRANTING PLAINTIFF
WAYNE VAN SCOY'S MOTION FOR SUMMARY JUDGMENT ON
DEFENDANTS' LACHES, ACQUIESCENCE AND ESTOPPEL DEFENSES**

This matter comes before the Court on Plaintiff's Motion for Summary Judgment on Defendants' Laches, Acquiescence and Estoppel Defenses. Pursuant to Section 56(c) of the Federal Rules of Civil Procedure, there exists no genuine issue of fact material as to Defendants' laches, acquiescence and estoppel defenses. Furthermore, even when all of evidence and inferences drawn therefrom are viewed in the light most favorable to Defendants, Defendants cannot establish the existence of every element on which it has the burden of proof at trial. For these reasons, it is hereby

ORDERED and ADJUDGED that this motion is **GRANTED** and that Summary Judgment is hereby entered against Defendants on their Laches, Acquiescence and Estoppel defenses.

IT IS SO ORDERED

KENT A JORDAN
United States District Judge

CERTIFICATE OF SERVICE

I hereby certify that on the 25th day of October, 2005, the attached **PLAINTIFF**
WAYNE VAN SCOY'S MOTION FOR SUMMARY JUDGMENT ON
DEFENDANTS' LACHES, ACQUIESCENCE AND ESTOPPEL DEFENSES was
served upon the below-named counsel of record at the address and in the manner indicated:

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VIA U.S. MAIL

/s/ John G. Day

John G. Day (#2403)